

CLOSED

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED

JUN 07 2007
CLERK'S OFFICE
U. S. DISTRICT COURT
EASTERN MICHIGAN

WILLIE MOSLY,

Petitioner,

v.

CASE NO. 99-CV-76276-DT
HONORABLE ARTHUR J. TARNOW

ROBERT KAPTURE,

Respondent,

_____ /

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

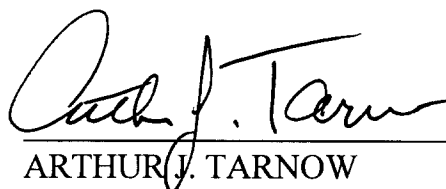
Willie Mosly ("Petitioner") has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This Court dismissed two of his claims (regarding the sufficiency of the evidence and the trial court's factual findings) and ordered an evidentiary hearing on his ineffective assistance of counsel claim in an order dated December 14, 2000. The Court conducted the evidentiary hearing on January 19, 2001. Following that hearing, the Court held this matter in abeyance to allow Petitioner to pursue a jury trial waiver claim in the state courts. Petitioner did so and, through counsel, notified this Court on June 17, 2004 that those proceedings had been concluded. The Court then learned that Petitioner was on escape status from his Michigan Department of Corrections placement in a community residential program. Consequently, the Court dismissed his case on November 10, 2004 pursuant to the "fugitive disentitlement doctrine," which allows a court, in the exercise of its discretion, to dismiss an appeal by a defendant who has fled

from custody on a criminal conviction imposed by a court in this country. *See, e.g., Estelle v. Dorrough*, 420 U.S. 534 (1975). Several federal courts have invoked the fugitive disentitlement doctrine to dismiss habeas petitions. *See Bagwell v. Dretke*, 376 F.3d 408, 412 (5th Cir. 2004) (citing cases).

Petitioner was subsequently returned to state custody and moved to re-open his habeas case. The Court granted his motion and re-opened the case on September 21, 2005. Petitioner, through counsel, filed a supplement brief in support of the petition on November 21, 2005. Respondent filed a supplemental answer on April 20, 2006.

The Court has since discovered that Petitioner absconded from parole on September 13, 2006. *See* Offender Tracking Information System (OTIS) Offender Profile, attached. Because Petitioner has absconded from custody a second time, the Court will again dismiss his petition pursuant to the “fugitive disentitlement doctrine.” Dismissal is appropriate in this case due to the unenforceability of any judgment authorizing habeas relief, the indignity visited upon the court and the rule of law, and deterrence. Accordingly,

IT IS ORDERED that the petition for writ of habeas corpus is **DISMISSED**.



ARTHUR J. TARNOW

UNITED STATES DISTRICT JUDGE

DATED: June 7, 2007

PURSUANT TO RULE 77(D), FRCrP
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Corrections



Michigan.gov

An Official State of Michigan Web Site

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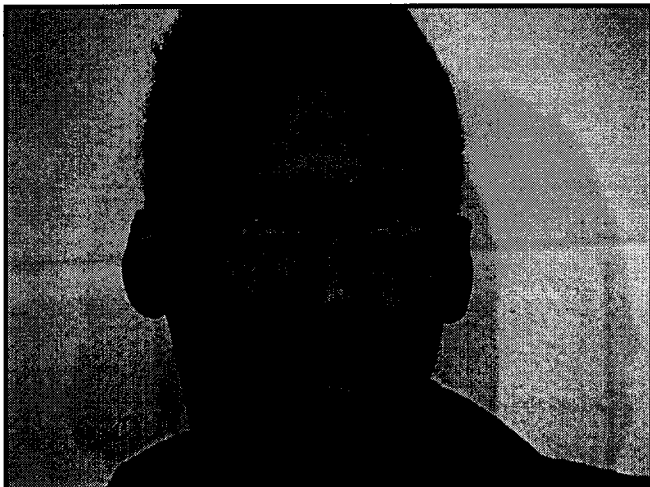
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BIOGRAPHICAL INFORMATION



WILLIE MOSLY

MDOC Number:	136428
SID Number:	0753313M
Name:	WILLIE MOSLY
Racial Identification:	Black
Gender:	Male
Hair:	Black
Eyes:	Brown
Height:	6' 4"
Weight:	204 lbs.
Date of Birth:	10/02/1954 (52)
Image Date:	4/5/2005

MDOC STATUS

Current Status: Absconder from Parole

Supervision Begin Date:

Absconded From: Wayne/Detroit SAI
Aftercare/Prob/Par

Supervision Discharge Date:

Security Level:

Abscond Date: 09/13/2006

ALIASES

DORIAN WILLIS

EARL MOSLEY

EARL MOSLEY JR

JAMES INGR

SAREEF HASSAN

SHANEFF HASSAM

SHANEFF HASSAM

SHAREEF HASSAN

SHAREEF NMN HASSAN

SHAREFF HASSAN

TONY WILDER

TONY CURTIS WILDER

MARKS, SCARS & TATTOOS

Scar- Left Arm

Scar- Left Hip

WILLIE MOSELY

WILLIAM MOSLEY

WILLIE MOSBY

WILLIE MOSEY

WILLIE E MOSEY

WILLIE ESTER MOSBY

WILLIE ESTER MOSBY III

WILLIE ESTER MOSEY

WILLY MOSELY

PRISON SENTENCES**ACTIVE****Sentence 1**

Offense:	Larceny Over \$100	Minimum Sentence:	6 years 8 months 0 days
MCL#:	<u>750.356-A / 769.11</u>	Maximum Sentence:	10 years 0 months
Court File#:	96008042-01	Date of Offense:	08/20/1996
County:	Wayne	Date of Sentence:	04/11/1997
Conviction Type:	Bench		

INACTIVE**Sentence 1**

Offense:	Obtain Money, False Pretenses - Attempt	Minimum Sentence:	1 year 6 months 0 days
MCL#:	<u>750.218</u>	Maximum Sentence:	5 years 0 months
Court File#:	8812120	Date of Offense:	08/17/1988
County:	Wayne	Date of Sentence:	08/22/1989
Conviction Type:	Bench	Discharge Date:	02/19/1995
		Discharge Reason:	Offender Discharge

Sentence 2

Offense:	Obtain Money, False Pretenses	Minimum Sentence:	0 years 9 months 0 days
MCL#:	<u>750.218</u>	Maximum Sentence:	5 years 0 months
Court File#:	86 677635 02	Date of Offense:	07/29/1986
County:	Wayne	Date of Sentence:	10/29/1986
Conviction Type:	Plea	Discharge Date:	02/19/1995
		Discharge Reason:	Offender Discharge

Sentence 3

Offense:	Breaking & Entering a Building With Intent	Minimum Sentence:	2 years 0 months 0 days
MCL#:	<u>750.110</u>	Maximum Sentence:	10 years 0 months

Court File#:		Date of Offense:	06/16/1975
County:		Date of Sentence:	06/16/1975
Conviction Type:	Unknown	Discharge Date:	06/01/1978
		Discharge Reason:	Offender Discharge

Sentence 4

Offense:	Larceny Over \$100 - Attempt	Minimum Sentence:	1 year 0 months 0 days
MCL#:	<u>750.356</u>	Maximum Sentence:	2 years 6 months
Court File#:		Date of Offense:	10/01/1973
County:		Date of Sentence:	10/01/1973
Conviction Type:	Unknown	Discharge Date:	11/01/1975
		Discharge Reason:	Order Terminated, Continued on Additional Order(s)

PROBATION SENTENCES

ACTIVE

None

INACTIVE

None

SUPERVISION CONDITIONS

Supervision Conditions are not published due to 'Absconder' status.

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